

AMENDMENT TO:

California Code of Regulations Title 9. Rehabilitative and Developmental Services Division 1. Department of Mental Health Chapter 11. Medi-Cal Specialty Mental Health Services

REVISED PROPOSED TEXT

Text proposed to be added to the California Code of Regulations is displayed in underlined type. This text was originally proposed on July 29, 2005.

Additions to the text, as originally proposed are displayed in **double-underlined and bold** type.

Deletions from the text as originally proposed are displayed in **strikeout, bold and underlined** type.

Subchapter 1. General Provisions

Article 1. General

1810.110. Applicability of Laws and Regulations and Program Flexibility.

(a) – (c) NO CHANGES.

(d) The Department may waive specific requirements of the regulations in Subchapters 1, 2, 3, and 4 at the request of a mental health plan pursuant to Section 5719.5 of the Welfare and Institutions Code for the purpose of testing elements of the specialty mental health services delivery system as authorized by Section 5778(c) of the Welfare and Institutions Code, provided the mental health plan remains in compliance with all other applicable laws and regulations. A written request and substantiating evidence supporting the request shall be submitted by the mental health plan to the Department. If the request is consistent with this Subsection and the field test design approved by the Department ~~Department~~, in consultation with the State Department of Health Services, pursuant to Section 5719.5 of the Welfare and Institutions Code, the request shall be approved by the Department. The approval shall provide for the terms and conditions under which the exception is granted, and shall be effected by an amendment to the contract between the mental health plan and the Department under this Chapter.

NOTE: Authority: Section 14680, Welfare and Institutions Code.

Reference: Sections 5719.5, 5775, 5776, 5777, 5778, and 14684, Welfare and Institutions Code.

Article 4. Standards

1810.415. Coordination of Physical and Mental Health Care.

(a) – (d) NO CHANGES.

The MHP of the beneficiary shall not be required to ensure the beneficiary's access to physical health care based treatment or to ensure the beneficiary's access to treatment from licensed mental health professionals for diagnoses not covered in Section 1830.205(b)(1). When the situation generating a referral under this Subsection meets the criteria established in Section 1850.210~~(i)~~(g), a notice of action will be provided in accordance with that Section.

NOTE: Authority: Section 14680, Welfare and Institutions Code.
Reference: Sections 14681, 14683, and 14684, Welfare and Institutions Code.

Subchapter 2. Medi-Cal Psychiatric Inpatient Hospital Services

Article 2. Provision of Services

1820.225. MHP Payment Authorization for Emergency Admissions by a Point of Authorization.

(a) The MHP shall not require a hospital to obtain prior MHP payment authorization for an emergency admission, whether voluntary or involuntary.

(b) The hospital providing emergency psychiatric inpatient hospital services shall assure that the beneficiary meets the criteria for medical necessity in Section 1820.205, and due to a mental disorder, is:

(1) A current danger to self or others, or

(2) Immediately unable to provide for, or utilize, food, shelter or clothing.

(c) The hospital providing emergency psychiatric inpatient hospital services shall notify the MHP of the county of the beneficiary within **24 hours of the time of the admission of the beneficiary to the hospital ten calendar days of the time of presentation for emergency services**, or within the timelines specified in the contract, if a time requirement is included as a term of the contract between the hospital and MHP.

(1) If the hospital cannot determine the MHP of the beneficiary, the hospital shall notify the MHP of the county where the hospital is located, within **24 hours of admission ten calendar days of the date of presentation for emergency services**.

(2) The MHP for the county where the hospital is located shall assist the hospital to determine the MHP of the beneficiary. The hospital shall notify the MHP of the beneficiary within **24 hours of determination ten calendar days of the date of presentation for emergency services** of determination of the appropriate MHP.

(d) Requests for MHP payment authorization for an emergency admission shall be approved by an MHP when:

(1) A hospital notified the Point of Authorization within **24 hours of admission of a beneficiary to the hospital ten calendar days of the date of presentation for emergency services**, or within the time required by contract, if a time requirement is included as a term of the contract between the hospital and MHP.

(2) Written documentation has been provided to the MHP that certifies that a beneficiary met the criteria in Subsection (b) at the time of admission.

(3) Written documentation has been provided to the MHP that certifies a beneficiary met the criteria in Subsection (b) for the day of admission.

(4) A non-contract hospital includes documentation that the beneficiary could not be safely transferred to a contract hospital or a hospital owned or operated by the MHP of the beneficiary, if the transfer was requested by the MHP.

(5) Any mandatory requirements of the contract negotiated between the hospital and the MHP are met.

(e) After an emergency admission, the MHP of the beneficiary may:

(1) Transfer the beneficiary from a non-contract to a contract hospital or a hospital owned or operated by the MHP of the beneficiary as soon the patient is stable. An acute patient shall be considered stable when no deterioration of the patient's condition is likely, within reasonable medical probability, to result from or occur during the transfer of the patient from the hospital.

(2) Choose to authorize continued stay with a non-contract hospital.

NOTE: Authority: Section 14680, Welfare and Institutions Code, **and Title 42 Code of Federal Regulations Section 438.114(d)(ii).**

Reference: Sections 5777, 5778, and 14684, Welfare and Institutions Code.

Subchapter 5. Problem Resolution Processes

Article 1. Beneficiary Problem Resolution Processes

1850.205. General Provisions.

(a) An MHP shall develop problem resolution processes that enable a beneficiary to resolve a problem or concern about any issue related to the MHP's performance of its duties under this Chapter, including the delivery of specialty mental health services.

(b) The MHP's beneficiary problem resolution processes shall include:

(1) A grievance process;

(2) An appeal process; and

(3) An expedited appeal process.

(c) For the grievance, appeal, and expedited appeal processes, found in Sections 1850.206, 1850.207 and 1850.208 respectively, the MHP shall ensure:

(1) That each beneficiary has adequate information about the MHP's processes by taking at least the following actions:

(A) Including information describing the grievance, appeal, and expedited appeal processes in the MHP's beneficiary booklet and providing the beneficiary booklet to beneficiaries as described in Section 1810.360.

(B) Posting notices explaining grievance, appeal, and expedited appeal process procedures in locations at all MHP provider sites sufficient to ensure that the information is readily available to both beneficiaries and provider staff. The posted notice shall also explain the availability of fair hearings **after the exhaustion of an appeal or expedited appeal process, instead of or at any time before, during or within 90 days after the completion of an appeal or expedited appeal process** including information that a fair hearing may be requested whether or not the beneficiary has received a notice of action pursuant to Section 1850.210. For the purposes of this Section, an MHP provider site means any office or facility owned or operated by the MHP or a provider contracting with the MHP at which beneficiaries may obtain specialty mental health services.

(C) Making forms that may be used to file grievances, appeals, and expedited appeals, and self addressed envelopes available for beneficiaries to pick up at all MHP provider sites without having to make a verbal or written request to anyone.

(2) That a beneficiary may authorize another person to act on the beneficiary's behalf. The beneficiary may select a provider as his or her representative in the appeal or expedited appeal process.

(3) That a beneficiary's legal representative may use the grievance, appeal, or expedited appeal processes on the beneficiary's behalf.

(4) That an MHP staff person or other individual is identified by the MHP as having responsibility for assisting a beneficiary, at the beneficiary's request, with these processes, including assistance in writing the grievance, appeal, or expedited appeal. If the individual identified by the MHP is the person providing specialty mental health services to the beneficiary requesting assistance, the MHP shall identify another individual to assist that beneficiary.

(5) That a beneficiary is not subject to discrimination or any other penalty for filing a grievance, appeal, or expedited appeal.

(6) That procedures for the processes maintain the confidentiality of beneficiaries.

(7) That a procedure is included by which issues identified as a result of the grievance, appeal or expedited appeal processes are transmitted to the MHP's Quality Improvement Committee, the MHP's administration or another appropriate body within the MHP for consideration in the MHP's Quality Improvement Program as required by Section 1810.440(a)(5).

(8) That the individuals making the decision on the grievance, appeal, or expedited appeal were not involved in any previous review or decision-making on the issue presented in the respective problem resolution process.

(9) That the individual making the decision on the grievance, appeal, or expedited appeal has the appropriate clinical expertise as determined by the MHP to treat the beneficiary's condition, if the grievance is regarding the denial of a request for an expedited appeal or if the grievance, appeal, or expedited appeal is about clinical issues.

(d) For the grievance, appeal, and expedited appeal processes found in Sections 1850.206, 1850.207, and 1850.208, the MHP shall:

(1) Maintain a grievance and appeal log and record grievances, appeals, and expedited appeals in the log within one working day of the date of receipt of the grievance or appeal. The log entry shall include but not be limited to the name of the beneficiary, the date of receipt of the grievance, appeal, or expedited appeal, and the nature of the problem.

(2) Record in the grievance and appeal log or another central location determined by the MHP the final dispositions of grievances, appeals, and expedited appeals, including the date the decision is sent to the beneficiary, or document the reason(s) that there has not been final disposition of the grievance, appeal, or expedited appeal.

(3) Provide a staff person or other individual with responsibility to provide information on request by the beneficiary or an appropriate representative regarding the status of the beneficiary's grievance, appeal, or expedited appeal.

(4) Acknowledge the receipt of each grievance, appeal, and expedited appeal to the beneficiary in writing.

(5) Identify the roles and responsibilities of the MHP, the provider, and the beneficiary.

(6) Notify those providers cited by the beneficiary or otherwise involved in the grievance, appeal, or expedited appeal of the final disposition of the beneficiary's grievance, appeal, or expedited appeal.

(e) No provision of an MHP's beneficiary problem resolution processes shall be construed to replace or conflict with the duties of county patients' rights advocates as described in Welfare and Institutions Code, Section 5520.

NOTE: Authority: Section 14680, Welfare and Institutions Code.

Reference: Sections 5520 and 14684, Welfare and Institutions Code, and Title 42, Code of Federal Regulations, Part 438, Subpart F.

1850.207. The Appeal Process.

In addition to meeting the requirements of Section 1850.205, the appeal process shall, at a minimum:

(a) Allow a beneficiary to file an appeal orally or in writing.

(b) Require a beneficiary to follow an oral appeal with a written appeal. The date the MHP receives the oral appeal shall be considered the filing date for the purpose of applying the appeal timeframes in Subsection (c).

(c) Provide for a decision on the appeal and notify the affected parties within 45 calendar days of receipt of the appeal. This timeframe may be extended by up to 14 calendar days, if the beneficiary requests an extension or the MHP determines that there is a need for additional information and that the delay is in the beneficiary's interest. If the MHP extends the timeframes, the MHP shall, for any extension not requested by the beneficiary, notify the beneficiary of the extension and the reasons for the extension in writing. The written notice of the extension is not a Notice of Action as defined in Section 1810.230.5.

(d) Inform the beneficiary of his or her right to request a fair hearing **after the appeal process of the MHP has been exhausted at any time before, during or after the appeal process has begun.**

(e) Allow the beneficiary to have a reasonable opportunity to present evidence and allegations of fact or law, in person or in writing.

(f) Allow the beneficiary and/or his or her representative to examine the beneficiary's case file, including medical records, and any other documents or records considered before and during the appeal process.

(g) Allow the beneficiary and/or his or her representative, or the legal representative of a deceased beneficiary's estate to be included as parties to the appeal.

(h) Notify the beneficiary and/or his or her representative of the resolution of the appeal in writing. The notice shall contain:

(1) The results of the appeal resolution process.

(2) The date that the appeal decision was made.

(3) If the appeal is not resolved wholly in favor of the beneficiary, the notice shall also contain information regarding the beneficiary's right to a fair hearing and the

procedure for filing for a fair hearing, if the beneficiary has not already requested a fair hearing on the issue involved in the appeal.

(i) Promptly provide or arrange and pay for the disputed services if the decision of the appeal resolution process reverses a decision to deny, limit or delay services.

NOTE: Authority: Section 14680, Welfare and Institutions Code.

Reference: Section 14684, Welfare and Institutions Code, and Title 42, Code of Federal Regulations, Part 438, Subpart F.

Article 2. Fair Hearing and Notice of Action

1850.215. Continuation of Services Pending Fair Hearing Decision.

(a) A beneficiary receiving specialty mental health services pursuant to this Chapter shall have a right to file for continuation of specialty mental health services pending fair hearing pursuant to Title 22, Section 51014.2. The time limits for filing for a continuation of services pursuant to Title 22, Section 51014.2 shall not be extended by a beneficiary's decision to pursue an MHP's beneficiary problem resolution process as described in Section 1850.205.

(b) The MHP shall provide continuation of specialty mental health services pending a fair hearing in accordance with Title 22, Section 51014.2. If an MHP allows providers to deliver specialty mental health services for a set number of visits or a set duration of time without prior authorization, the MHP shall provide continuation of specialty mental health services pending a fair hearing when the MHP denies an MHP payment authorization request from a provider requesting continuation of services beyond the number or duration permitted without prior authorization and the beneficiary files a timely request for fair hearing pursuant to Subsection (a).

(c) For the purpose of this Section, each reference to Medi-Cal managed care plan in Title 22, Section 51014.2, shall mean the MHP.

(d) Before requesting a state fair hearing, the beneficiary must exhaust the MHP's problem resolution processes as described in Section 1850.205.

NOTE: Authority: Section 14680, Welfare and Institutions Code.

Reference: Section 14684, Welfare and Institutions Code.